

Remarks

Applicant has reviewed the Office Action dated as mailed June 10, 2009 and the documents cited therewith and the present amendment has been prepared in response thereto. Claims 7, 8, 9, 13, 14, 15 and 16 have been amended. Claims 4, 5, 10, 11, 12 18 through 22 have been canceled. New claims 23 through 29 have been added.

Independent claim 8 was rejected as being unpatentable over Craft in view of Bullock. Craft discloses a clothes basket where the concave wall does not include a recessed portion or a pad. The rim portion of the concave wall of the Craft basket is made of the same material having the same properties as the rest of the basket.

The Examiner relied on Bullock to teach the cushion pad. Bullock discloses a waste basket that is intended to be supported on ball feet 12 on a floor. Thus, Bullock does not disclose a concave portion having a cushion pad that faces a user when the user grips a handle located opposite to the concave portion. The pad in Bullock is not intended to protect or comfortably engage a user that is holding the waste basket nor is the waste basket designed to be comfortably held against a user's hip. Further, the resilient element 19 in the waste basket of Bullock extends about the entire periphery of the waste basket to prevent the waste basket from marring walls or furniture. Thus, Bullock also does not disclose a pad that is disposed only in the curved concave wall section such that it is disposed toward the user when an opposed handle is gripped. Further, Bullock does not disclose the relative coefficients of friction of the side walls and resilient member 19. Therefore, even if Bullock is combined with Craft the two references, when considered together, do not disclose all of the claim limitations.

If one of ordinary skill in the art was motivated to combine the waste basket of Bullock with the clothes basket of Craft, it is submitted that the teachings of Bullock would lead the ordinary skilled person to place a resilient member around the entire periphery of Craft. This is the only arrangement disclosed by Bullock and it is the only arrangement that would meet Bullock's express teaching of providing padding to prevent the marring of furniture or walls. Placing a pad only in a portion of the rim of Craft is counter to the express teachings of Bullock

and would fail to provide the benefits of the Bullock arrangement because the unpadded portions would mar furniture or walls. It is submitted that one of ordinary skill in the art would not have combined the resilient element as shown in Bullock in the Craft device to arrive at the claimed invention where the resilient member is located only in the concave wall opposite from a handle.

All of the remaining claims depend from independent claim 8 discussed above and are allowable for at least the same reasons.

Further, it is submitted that claim 29 is allowable because none of the references disclose two concave surfaces each having a pad and an opposed handle. The Examiner relied on Pink for this feature; however, Pink does not show the two pads or the handles arranged opposite the pads as required by claim 29. Thus, even if the references are combined as suggested by the Examiner the prior art does not show all of the claim elements.

It is submitted that the claims define over the prior art of record and are allowable and that the application is in a condition for allowance. If the Examiner has any questions about the present amendment a telephone interview is requested.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 13-4365.

Respectfully submitted,

Brandi Loucks

(Applicant)

Date: September 8, 2009

By: 

Dennis J. Williamson
Registration No. 32,338
Attorney for Applicant
Moore & Van Allen, PLLC
P.O. Box 13706
Research Triangle Park, N.C. 27709
Phone: 919-286-8000
Facsimile: 919-286-8199